

AMENDED IN SENATE APRIL 6, 2015

SENATE BILL

No. 119

Introduced by Senator Hill

January 14, 2015

An act to add Section 7110.7 to the Business and Professions Code, ~~and~~ to amend Sections 4216, 4216.1, 4216.2, 4216.3, 4216.4, 4216.5, ~~4616.6~~ 4216.6, 4216.7, 4216.8, and 4216.9 of, and to add Sections 4216.10, 4216.11, 4216.12, 4216.13, 4216.14, 4216.15, 4216.16, 4216.17, 4216.18, 4216.19, 4216.20, and 4216.21 to, the Government Code, *and to amend Section 1702.5 of, and to add Section 320.5 to, the Public Utilities Code*, relating to excavations.

LEGISLATIVE COUNSEL'S DIGEST

SB 119, as amended, Hill. Protection of subsurface installations.

Existing law vests the Contractors' State License Board with all functions and duties relating to the administration of ~~The~~ *the* Contractors' State License Law. Existing law authorizes the issuance of licenses to applicants for contractors' licenses by written examination under rules and regulations adopted by the board.

This bill would require the board to adopt a program to enforce violations of provisions relating to excavation. The bill would authorize the board to require a contractor to undergo training, levy a fine, and suspend a contractor's license for a violation.

Existing law requires every operator of a subsurface installation, except the Department of Transportation, to become a member of, participate in, and share in the costs of, a regional notification center. Existing law requires any person who plans to conduct any excavation to contact the appropriate regional notification center before commencing that excavation, as specified. Existing law defines a

subsurface installation as ~~any underground~~ any underground pipeline, conduit, duct, wire, or other structure, except nonpressurized sewer lines, storm drains, or other drain lines. Existing law requires an operator of a subsurface installation, who receives notification of proposed excavation work, within 2 working days of that notification, excluding weekends and holidays, to mark the approximate location and number of subsurface installations that may be affected by the excavation or to advise that no subsurface installations operated by him or her would be affected. Existing law requires an operator of a subsurface installation that has failed to comply with these provisions to be liable to the excavator for damages, costs, and expenses.

This bill would declare the need to clarify and revise these provisions. The bill would define and redefine various terms relating to a regional notification center. The bill would instead define a subsurface installation as an underground or submerged duct, pipeline, or structure. This bill would also delete the exception for the Department of Transportation.

The bill would require an excavator planning to conduct an excavation to delineate the area to be excavated before notifying the appropriate regional notification center of the planned excavation, as provided. *The bill would require an operator, before the legal start date and time of the excavation, to locate and field mark, within the area delineated for excavation, its subsurface installations.* The bill would require an operator to maintain and preserve all plans and records for any subsurface installation owned by that operator as that information becomes known, as specified.

This bill would prohibit an excavator that damages a subsurface installation due to an inaccurate field mark, as defined, by an operator from being liable for damages, replacement costs, or other expenses arising from damage to the subsurface installation, provided that the excavator complied with the provisions described above. The bill would also require, in any action for reimbursement or indemnification for a claim arising from damage to a subsurface installation in which the court or arbitrator finds that the excavator complied with those provisions, the excavator to be awarded reasonable attorneys' fees and expenses.

The bill would delete the existing exemptions pertaining to an owner of real property and would instead exempt an owner of residential real property who only uses ~~nonmechanized~~ hand tools for excavation work

not requiring a permit on his or her residential real property that has no easement or right of way.

Existing law authorizes the Occupational Safety and Health Standards Board to adopt and to publish occupational safety and health standards.

This bill would require the board, on or before January 1, 2017, to revise these provisions to clarify best practices to be used by excavators when excavating near subsurface installations. The bill would also require the board to convene an advisory committee hearing to seek input from operators, regional notification centers, labor, and excavators on best practices to be used for excavating in urban areas, the appropriate frequency of potholing, and other best practices developed by various industry associations.

This bill would create the California Underground Facilities Safe Excavation Authority. The bill would require the authority to enforce laws relating to the protection of underground infrastructure by hearing complaints and assessing civil penalties for violations of these provisions.

The bill would also authorize the Public Utilities Commission and the Office of the State Fire Marshal to enforce the requirement to locate and field mark subsurface installations and lines against operators of natural gas and electric underground infrastructure and hazardous liquid pipelines, unless these operators are municipal utilities.

The authority would be composed of 9 members who would serve 2-year terms. The bill would authorize the authority to use compliance audits and investigations in enforcing these provisions and furthering its purposes. The bill would require the authority, on or before January 1, 2017, and each year thereafter, to report to the Governor and the Legislature on its activities and any recommendations.

The bill would create the Safe Energy Infrastructure and Excavation Fund in the State Treasury and would provide that moneys deposited into the fund are to be used to cover the administrative expenses of the authority, upon appropriation by the Legislature. The bill would authorize the commission to use excess moneys in the fund for specified purposes relating to the safety of underground utilities, upon appropriation by the Legislature.

Existing law requires the Public Utilities Commission to develop and implement a safety enforcement program that is applicable to gas corporations and electrical corporations and that includes procedures for monitoring, data tracking and analysis, and investigations, as well as issuance of citations by commission staff, under the direction of the

executive director of the commission, for correction and punishment of safety violations. That law requires the commission to develop and implement an appeals process to govern issuance and appeal of citations, or resolution of corrective action orders. That law requires the commission to implement the safety enforcement program for gas safety by July 1, 2014, and for electrical safety by January 1, 2015.

This bill would require that moneys collected as a result of the issuance of citations to gas corporations and electrical corporations pursuant to the above-described law be deposited in the Safe Energy Infrastructure and Excavation Fund.

The bill would make other conforming changes.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares the following:

2 (a) Discussions that have taken place since Article 2
3 (commencing with Section 4216) of Chapter 3.1 of Division 5 of
4 Title 1 of the Government Code was added by Chapter 928 of the
5 Statutes of 1989 have led to widespread agreement that many of
6 the provisions of the article should be clarified.

7 (b) Regional notification centers, or “one-call” centers, have
8 developed means of electronic communication that improve the
9 efficiency of the “one-call” process, and statutory barriers to using
10 new methods of notification should be eliminated.

11 (c) *Electronic positive response is a means to communicate the*
12 *status of responses to an excavator’s notice of excavation via the*
13 *one-call center and provides the safety benefit that an excavator*
14 *has an easy means to know whether or not all of the utilities within*
15 *the excavation area have marked their underground facilities.*

16 (e)

17 (d) The delineation by an excavator of the area to be excavated
18 in advance of the field location and marking by subsurface facility
19 operators of their facilities aids the excavator in understanding
20 where underground facilities were marked, and thus improves
21 safety. This practice was recommended by the National
22 Transportation Safety Board in its 1997 study “Protecting Public
23 Safety through Excavation Damage Prevention” and is a best
24 practice of the Common Ground Alliance.

~~(d)~~

(e) Continuing an excavation after an excavation “ticket” has expired does not promote safety, and excavators should ~~apply for a new ticket before the expiration of an old one.~~ *renew their ticket with the one-call center before expiration.* Continuing excavation when markings are no longer visible does not promote safety, and excavators should stop work until the ~~lines~~ *subsurface installations* are remarked.

~~(e)~~

(f) The benefits of eliminating old field marks once an excavation project is complete are more than just aesthetic; eliminating old field marks helps prevent confusion for the next excavator to dig in that area.

~~(f)~~

(g) Increased communication between subsurface installation operators and excavators before breaking ground has safety benefits.

(h) *Construction sites often have many parties conducting different, ongoing work, and so the inherent safety risks associated with that work can be increased by a failure of these parties to effectively communicate. Excavators, operators of subsurface facilities, and locators have a responsibility to communicate with other parties before entering these worksites, which may require advance schedule coordination, and also have a responsibility to observe the safety requirements set for those worksites.*

~~(g)~~

(i) ~~Abandoned lines that are not marked~~ *subsurface installations* can be mistaken for active ~~lines~~ *subsurface installations* that are marked, and thus present a safety risk to excavators and the public. Safety will be improved if subsurface facility operators identify these ~~lines~~ *subsurface installations* when their existence is known.

~~(h)~~

(j) The ability of an operator of subsurface facilities to locate and mark affected facilities can be seriously impaired by a lack of high-quality records of those facilities, and thus operators should keep records of their facilities for as long as they are in the ground, whether or not they are in use.

~~(i)~~

1 (k) Failure by an operator of subsurface facilities to mark the
2 facilities within the required ~~48-hour~~ *two-working-day* period is a
3 serious breach of duty.

4 (l) *While a utility operator has two working days after an*
5 *excavator's call to the one-call center to mark its underground*
6 *facilities, failure of that utility to do so does not relieve the*
7 *excavator of the safety responsibility to wait until the utility*
8 *operator has marked before commencing excavation.*

9 ~~(j)~~

10 (m) Mismarks by an operator place excavators and the public
11 at great safety risk, and so operators who mismark their facilities
12 are entitled to no award for any damages to those facilities.

13 ~~(k)~~

14 (n) Facilities that are embedded in pavement require more
15 extensive communication to prevent them from being damaged.
16 Excavators should not be liable for damage to traffic loops.

17 ~~(l)~~

18 (o) Exemptions that allow a class of persons to excavate without
19 calling 811 shall be made not based on convenience, but rather
20 permitted only if ~~alternatives~~ *alternative* procedures allow the
21 excavation to take place without compromising safety.

22 ~~(m)~~

23 (p) The exemption that permits the Department of Transportation
24 not to submit its maps to the regional notification center and not
25 to mark its underground facilities within 48 hours does not have
26 a basis in safety.

27 ~~(n)~~

28 (q) The exemption that permits operators of nonpressurized
29 sewer lines and nonpressurized storm drains not to submit their
30 maps to the regional notification center and not to mark their
31 underground facilities within 48 hours does not have a basis in
32 safety, as gas or electric lines could be installed through those lines
33 and drains and thus create a safety hazard to those who clean those
34 sewers and drains and the public.

35 ~~(o)~~

36 (r) The exemption that permits private property owners to dig
37 on their property without calling a regional notification center to
38 have the area marked for underground facilities does not have a
39 basis in safety.

40 ~~(p)~~

1 (s) The exemption that permits homeowners to conduct
2 excavation on their property with heavy machinery or when there
3 is a utility easement on his or her property does not have a basis
4 in safety.

5 ~~(q)~~

6 (t) Behaviors that are suspected to be unsafe, but upon which
7 there is not widespread agreement as to the level of risk and,
8 therefore, are unregulated, must be monitored to better assess the
9 risk.

10 ~~(r)~~

11 (u) Clarification is needed for excavators to understand best
12 excavation practices, and this could be accomplished through
13 clarification of the regulations on excavation by the Occupational
14 Safety and Health Standards Board.

15 ~~(s)~~

16 (v) Other states have experienced a dramatic improvement in
17 safety after implementing centralized administrative enforcement
18 of one-call laws.

19 ~~(t)~~

20 (w) California should have a board, composed of excavation
21 stakeholders, subject to oversight by the Legislature and the
22 Department of Finance, to enforce the state's safe excavation laws
23 through field audits, incident investigations, and administrative
24 hearings, and to promote safe excavation practices. Due to the size
25 of the state, and in order to reduce costs, the board should meet in
26 northern and southern California.

27 ~~(u)~~

28 (x) The board should not be funded through the General Fund,
29 but should be funded by the community that will most directly
30 benefit from the enforcement of the state's safe excavation laws,
31 including the participants in the state's regional notification centers,
32 and the board should also be funded by the fines it levies, instead
33 of having those fines go to the General Fund.

34 ~~(v)~~

35 (y) After a hearing before the board pursuant to the
36 Administrative Procedures Act, a person found to be in violation
37 of the state's safe excavation laws could meet a variety of sanctions
38 including a fine not exceeding a specified amount and the
39 requirement to undergo relevant education.

40 ~~(w)~~

1 (z) To preserve due process, the superior court should be
2 available to an aggrieved party as a forum in which to challenge
3 a board decision.

4 (~~x~~)

5 (aa) Most persons who would be subject to the board's oversight
6 are also subject to the oversight of other enforcement agencies,
7 and those agencies should also take steps to reduce the safety risks
8 posed by violations of the state's safe excavation laws.

9 SEC. 2. Section 7110.7 is added to the Business and Professions
10 Code, to read:

11 7110.7. (a) ~~The Contractors'~~ *Contractors'* State License Board
12 shall adopt a program to enforce violations of paragraph (1) of
13 subdivision (a) of Section 4216.2 of the Government Code.

14 (b) The Contractors' State License Board shall require
15 contractors to undergo training relating to compliance with
16 paragraph (1) of subdivision (a) of Section 4216.2 of the
17 Government Code, as determined by the board, for an initial
18 violation.

19 (c) If the contractor does not attend training within two months
20 of being notified of the requirement to do so, or fails to provide a
21 reasonable explanation for his or her delay in scheduling that
22 training in writing, the board shall, in addition, levy a fine.

23 (d) A subsequent violation within one calendar year of the first
24 violation, failure to attend training, or failure to pay fines ultimately
25 may result in suspension of the contractor's license.

26 (e) The board shall determine a graduated scale of fines
27 considering the following factors:

28 (1) Whether the regional notification center received a timely
29 request for locate and *field* mark.

30 (2) The gravity of the violation.

31 (3) The good faith of the contractor.

32 (4) The contractor's history of previous violations.

33 SEC. 3. Section 4216 of the Government Code is amended to
34 read:

35 4216. As used in this article the following definitions apply:

36 (a) "Abandoned subsurface installation" means a subsurface
37 installation that is no longer in service and is physically
38 disconnected from any active or inactive subsurface installation.

39 (b) "Active subsurface installation" means a subsurface
40 installation currently in use or currently carrying service.

1 (c) “Authority” means the California Underground Facilities
2 Safe Excavation Authority.

3 (d) “Delineate” means to mark in white paint the location or
4 path of the proposed excavation using the guidelines in Appendix
5 B of the ~~Guidelines~~ “*Guidelines for Excavation-Delineation*
6 *Delineation*” published in Best Practices Version 11.0 by the
7 Common Ground Alliance. If there is a conflict between the
8 marking practices in those guidelines and other provisions of this
9 article, this article shall control.

10 (e) “Electronic positive response” means an electronic response
11 from an operator to the regional notification center providing the
12 status of an operator’s statutorily required response to a ticket.

13 (f) (1) “Emergency” means a sudden, unexpected occurrence,
14 involving a clear and imminent danger, demanding immediate
15 action to prevent or mitigate loss of, or damage to, life, health,
16 property, or essential public services.

17 (2) “Unexpected occurrence” includes, but is not limited to, a
18 fire, flood, earthquake or other soil or geologic movement, riot,
19 accident, damage to a subsurface installation requiring immediate
20 repair, or sabotage.

21 (g) “Excavation” means penetration of the plane between the
22 air and the existing surface of the ground or pavement by any
23 operation in which earth, rock, or other material is moved,
24 removed, or otherwise displaced by means of tools, equipment, or
25 explosives in any of the following ways: grading, trenching,
26 digging, ditching, drilling, augering, tunneling, scraping, cable or
27 pipe plowing and driving, gouging, crushing, jack hammering,
28 saw cutting, or any other way.

29 (h) Except as provided in Section 4216.8, “excavator” means
30 any person, firm, contractor or subcontractor, owner, operator,
31 utility, association, corporation, partnership, business trust, public
32 agency, or other entity that performs any excavation.

33 (i) “*Hand tool*” means a piece of equipment used for excavating
34 that uses human power and is not powered by any motor, engine,
35 hydraulic, or pneumatic device.

36 (i)

37 (j) “High priority subsurface installation” means high-pressure
38 natural gas pipelines with normal operating pressures greater than
39 415kPA gauge (60psig), petroleum pipelines, pressurized sewage
40 pipelines, high-voltage electric supply lines, conductors, or cables

1 that have a potential to ground of greater than or equal to 60kv, or
2 hazardous materials pipelines that are potentially hazardous to
3 workers or the public if damaged.

4 ~~(j)~~

5 (k) “Inactive subsurface installation” means both of the
6 following:

7 (1) The portion of an underground subsurface installation that
8 is not in use but is still connected to the subsurface installation, or
9 to any other subsurface installation, that is in use or still carries
10 service.

11 (2) A new underground subsurface installation that has not been
12 connected to any portion of an existing subsurface installation.

13 ~~(k)~~

14 (l) “Legal excavation start date and time” means at least two
15 working days, not including the date of notification, or up to 14
16 calendar days from the date of notification, if so specified by the
17 excavator.

18 ~~(l)~~

19 (m) “Local agency” means a city, county, city and county, school
20 district, or special district.

21 ~~(m)~~

22 (n) (1) “Locate and field mark” means to indicate the existence
23 of a ~~subsurface installation~~ *any owned or maintained subsurface*
24 *installations* by using the guidelines in Appendix B of the
25 “~~Guidelines for Excavation~~ *Operator’s Facility Field Delineation*”
26 published in Best Practices Version 11.0 by the Common Ground
27 Alliance and in conformance with the uniform color code of the
28 American Public Works Association. If there is a conflict between
29 the marking practices in the guidelines and this article, this article
30 shall control.

31 (2) “Locate and field mark” does not require an indication of
32 the ~~depth of cover~~. *depth*.

33 ~~(n)~~

34 (o) “Near miss” means an event in which damage did not occur,
35 but a clear potential for damage was identified.

36 ~~(o)~~

37 (p) “Operator” means any person, corporation, partnership,
38 business trust, public agency, or other entity that owns, operates,
39 or maintains a subsurface installation. For purposes of Section
40 4216.1, an “operator” does not include an owner of real property

1 where subsurface facilities are exclusively located if they are used
2 exclusively to furnish services on that property and the subsurface
3 facilities are under the operation and control of that owner.

4 ~~(p)~~

5 (q) “Pavement” means a manmade surface material that cannot
6 be removed with a conventional hand tool.

7 ~~(q)~~

8 (r) “Positive response” means the response from an operator
9 directly to the excavator providing the status of an operator’s
10 statutorily required response to a ticket.

11 ~~(r)~~

12 (s) “Qualified person” means a person who completes a training
13 program in accordance with the requirements of ~~Title 8, California~~
14 ~~Code of Regulations, Section 1509, Injury~~ *Section 1509 of Title 8*
15 *of the California Code of Regulations, Injury and Illness* Prevention
16 Program, that meets the minimum *locators* training guidelines and
17 practices published in Best Practices Version 11.0 by the Common
18 Ground Alliance.

19 ~~(s)~~

20 (t) “Regional notification center” means a nonprofit association
21 or other organization of operators of subsurface installations that
22 provides advance warning of excavations or other work close to
23 existing subsurface installations, for the purpose of protecting
24 those installations from damage, removal, relocation, or repair.

25 ~~(t)~~

26 (u) “State agency” means every state agency, department,
27 division, bureau, board, or commission.

28 ~~(u)~~

29 (v) “Subsurface installation” means any underground or
30 submerged duct, pipeline, or structure, including, but not limited
31 to, a conduit, duct, line, pipe, wire, or other structure.

32 ~~(v)~~

33 (w) “Ticket” means an excavation location request issued a
34 number by the regional notification center.

35 ~~(w)~~

36 (x) “Tolerance zone” means 24 inches on either side of the field
37 marking placed by the operator as follows:

38 (1) A single marking, assumed to be the centerline of the
39 subsurface installation, 24 inches from either side of that marking.

(2) A single marking with the size of installation specified as 24 inches plus one-half the specified size on either side from the single marking.

(3) Multiple markings that graphically show the width of the installation 24 inches from the marking that graphically show the outside surface of the subsurface installation on a horizontal plane.

~~(x)~~

(y) “Working day” for the purposes of determining excavation start date and time means a weekday Monday through Friday, from 7:00 a.m. to 5:00 p.m., except for federal *holidays* and state ~~holidays~~; *holidays, as defined in Section 19853 of the Government Code.*

SEC. 4. Section 4216.1 of the Government Code is amended to read:

4216.1. Every operator of a subsurface installation shall become a member of, participate in, and share in the costs of, a regional notification center. Operators of subsurface installations who are members of, participate in, and share in, the costs of a regional notification center, including, but not limited to, the Underground Service Alert—Northern California or the Underground Service Alert—Southern California are in compliance with this section and Section 4216.9.

SEC. 5. Section 4216.2 of the Government Code is amended to read:

4216.2. (a) ~~(1)~~—Before notifying the appropriate regional notification center, an excavator planning to conduct an excavation shall delineate the area to be excavated. If the area is not delineated, an operator ~~shall~~ *may, at the operator’s discretion, choose not to* locate and field-mark ~~mark until the area to be excavated has been delineated.~~

~~(2)~~

(b) Except in an emergency, an excavator planning to conduct an excavation shall notify the appropriate regional notification center of the excavator’s intent to excavate at least two working days, and not more than 14 calendar days, before beginning that excavation. The date of the notification shall not count as part of the two-working-day notice. If an excavator gives less notice than the legal excavation start date and time and the excavation is not an emergency, the regional notification center will take the

1 information and provide a ticket, but an operator has until the legal
2 excavation start date and time to respond.

3 ~~(3)~~

4 (c) When the excavation is proposed within 10 feet of a high
5 priority subsurface installation, the operator of the high priority
6 subsurface installation shall notify the excavator of the existence
7 of the high priority subsurface installation prior to the legal
8 excavation start date and time, and set up an onsite meeting at a
9 mutually agreed upon time to determine actions or activities
10 required to verify the location and prevent damage to the high
11 priority subsurface installation. The excavator shall not begin
12 excavating until after the completion of the onsite meeting.

13 ~~(b)~~

14 (d) Except in an emergency, every excavator covered by Section
15 4216.8 planning to conduct an excavation on private property that
16 does not require an excavation permit may contact the appropriate
17 regional notification center if the private property is known, or
18 reasonably should be known, to contain a subsurface installation
19 other than the underground facility owned or operated by the
20 excavator. Before notifying the appropriate regional notification
21 center, an excavator shall delineate the area to be excavated. Any
22 temporary marking placed at the planned excavation location shall
23 be clearly seen, functional, and considerate to surface aesthetics
24 and the local community. An excavator shall check if any local
25 ordinances apply to the placement of temporary markings.

26 ~~(e)~~

27 (e) If an excavator gives less than the legal excavation start date
28 and time and it is not an emergency, the regional notification center
29 shall take the information and provide a ticket but an operator shall
30 have until the legal excavation start date and time to respond.

31 ~~(d)~~

32 (f) The regional notification center shall provide a ticket to the
33 person who contacts the center pursuant to this section and shall
34 notify any member, if known, who has a subsurface installation
35 in the area of the proposed excavation. A ticket shall be valid for
36 28 days from the date of issuance. If work continues beyond 28
37 days, the excavator shall update the ticket either by accessing the
38 center's Internet Web site or by calling "811" by the end of the
39 28th day.

40 ~~(e)~~

(g) A record of all notifications by an excavator or operator to the regional notification center shall be maintained for a period of not less than three years. The record shall be available for inspection by the excavator and any member, or their representative, during normal working hours and according to guidelines for inspection as may be established by the regional notification centers.

~~(f) An~~

(h) *Unless an emergency exists, an excavator shall not begin excavation until the excavator receives a positive response from all known subsurface installations within the delineated boundaries of the proposed area of excavation.*

~~(g)~~

(i) If a site requires special access, an excavator shall request an operator to contact the excavator regarding that special access or give special instructions on the location request.

~~(h)~~

(j) If a ticket obtained by an excavator expires but work is ongoing, the excavator shall call into the regional notification center and get a new ticket and wait a minimum of two working days, not including the date of call in, before restarting excavation. All excavation shall cease during the waiting period.

~~(i)~~

(k) When the excavation is complete, the excavator shall eliminate or camouflage any temporary markings that remain for 45 days or more, unless a local ordinance indicates otherwise.

SEC. 6. Section 4216.3 of the Government Code is amended to read:

4216.3. (a) (1) (A) ~~An operator shall locate and field mark, if known, the number of subsurface installations that may be affected by an excavation, to~~ *Unless the excavator and operator mutually agree to a later start date and time, or otherwise agree to the sequence and timeframe in which the operator will locate and field mark, an operator shall do one of the following before the legal excavation start date and time:*

(i) *Locate and field mark within the area delineated for excavation and, where multiple subsurface installations of the same type are known to exist together, mark the number of subsurface installations.*

1 (ii) To the extent and degree of accuracy that the information
2 is available, provide information to an excavator where the
3 operator's active or inactive ~~lines~~ *subsurface installations* are
4 located, and advise *located*.

5 (iii) ~~Advise the excavator that there is no conflict before the~~
6 ~~legal excavation start date and time. The excavator and operator~~
7 ~~may mutually agree to a later start date and time or the sequence~~
8 ~~and timeframe in which the operator will mark. it operates no~~
9 ~~subsurface installations in the area delineated for excavation.~~

10 (B) An operator shall mark both main and service lines in
11 response to a locate request up to the meter. If there is no meter,
12 the lines shall be marked to the property line or behind the curb
13 or sidewalk, whichever is furthest from the main line.

14 (C) An operator shall mark newly installed subsurface
15 installations in areas with continuing excavation activity.

16 (D) ~~If known, an operator shall mark~~ *An operator shall indicate*
17 *with an "A" inside a circle the presence of any abandoned lines.*
18 *subsurface installations within the delineated area.* There shall be
19 no liability associated with marking ~~abandoned lines.~~ *subsurface*
20 *installations.* The markings are to make an excavator aware that
21 there are abandoned subsurface installations within that delineated
22 work area.

23 (2) Only a qualified person shall perform subsurface installation
24 locating activities.

25 (3) A qualified person performing subsurface installation
26 locating activities on behalf of an operator shall use a minimum
27 of a single-frequency utility locating device and shall have access
28 to alternative sources for verification, if necessary.

29 (4) An operator shall amend, update, maintain, and preserve all
30 plans and records for its subsurface installations as that information
31 becomes known. If there is a change in ownership of a subsurface
32 installation, the records shall be turned over to the new operator
33 who will assume full responsibility of the subsurface installation.
34 Records on ~~abandoned lines~~ *subsurface installations* shall be kept
35 beginning on January 1, 2016.

36 ~~(b) Every operator who has lines in the area of a proposed~~
37 ~~excavation shall locate and field mark the location of a subsurface~~
38 ~~installation.~~

39 (e)

(b) If the field marks are no longer reasonably visible, an excavator shall renotify the regional notification center with a request for remarks that can be for all or a portion of the excavation. Excavation shall cease in the area to be remarked. If the area to be remarked is not the full extent of the original excavation, the excavator shall delineate the portion to be remarked. If the delineation markings are no longer reasonably visible, the excavator shall redelineate the area to be remarked. If remarks are requested, the operator shall have two working days, not including the date of request, to remark the subsurface installation. Excavation shall cease in the area where the remarks are requested. If the area to be remarked is not the full extent of the original excavation, the excavator shall delineate the portion to be remarked and provide a description of the area requested to be remarked on the ticket. The excavator shall provide a description for the area to be remarked that falls within the area of the original location request.

~~(d)~~

(c) Every operator may supply an electronic positive response through the regional notification center before the legal excavation start date and time. The regional notification center shall make those responses available.

~~(e)~~

(d) The excavator shall notify the appropriate regional notification center of the failure of an operator to ~~comply with this section~~ *identify subsurface installations pursuant to subparagraph (A), (B), or (C) of paragraph (1) of subdivision (a), or subdivision (b)*. The notification shall include the ticket issued by the regional notification center. A record of all notifications received pursuant to this subdivision shall be maintained by the regional notification center for a period of not less than three years. The record shall be available for inspection pursuant to subdivision ~~(e)~~ (h) of Section 4216.2.

~~(f)~~

(e) If an operator or local agency knows that it has a subsurface installation embedded or partially embedded in the pavement that is not visible from the surface, the ~~owner~~ operator or local agency shall contact the excavator before pavement removal to communicate and determine a plan of action to protect that subsurface installation and excavator.

1 ~~(g)~~

2 (f) An excavator shall not be responsible for a traffic signal
3 detector loop, even if the excavator is notified that it is embedded
4 in the pavement, unless there is a local ordinance or permit
5 requirement to the contrary.

6 SEC. 7. Section 4216.4 of the Government Code is amended
7 to read:

8 4216.4. (a) (1) Except as provided in paragraph (2), if an
9 excavation is within the approximate location of a subsurface
10 installation, the excavator shall expose with hand tools to the depth
11 of the excavation within the tolerance zone, including any
12 applicable clearance requirements, for the full length of the project.

13 (2) (A) An excavator may use a vacuum excavation device to
14 expose subsurface installations within the tolerance zone if the
15 operator has marked the subsurface installation, the excavator has
16 contacted any operator whose subsurface installations may be in
17 conflict with the excavation, and the operator has agreed to the
18 use of a vacuum excavation device. An excavator shall inform the
19 regional notification center of his or her intent to use a vacuum
20 excavation device when obtaining a ticket.

21 (B) An excavator may use power-operated or boring equipment
22 for the removal of any existing pavement only if there is no known
23 subsurface installation contained in the pavement.

24 (b) If the exact location of the subsurface installation cannot be
25 determined by hand excavating in accordance with subdivision
26 (a), the excavator shall request the operator to provide additional
27 information to the excavator, to the extent that information is
28 available to the operator, to enable the excavator to determine the
29 exact location of the installation. If the excavator has questions
30 about the markings that an operator has placed, the excavator may
31 contact the notification center to send a request to have the operator
32 contact the excavator directly. The regional notification center
33 shall provide the excavator with the contact~~—phone~~ *telephone*
34 number of the subsurface installation operator.

35 (c) An excavator discovering or causing damage to a subsurface
36 installation, including all breaks, leaks, nicks, dents, gouges,
37 grooves, or other damage to subsurface installation lines, conduits,
38 coatings, or cathodic protection, shall immediately notify the
39 subsurface installation operator. The excavator may contact the
40 regional notification center to obtain the contact information of

1 the subsurface installation operator. If high priority subsurface
2 installations are damaged and the operator cannot be contacted
3 immediately, the excavator shall call 911 emergency services.

4 (d) Each excavator, operator, or locator shall communicate with
5 each other and respect the appropriate safety requirements and
6 ongoing activities of the other parties, if known, at an excavation
7 site.

8 SEC. 8. Section 4216.5 of the Government Code is amended
9 to read:

10 4216.5. The requirements of this article apply to state agencies
11 and to local agencies that own or operate subsurface installations.
12 A local agency that is required to provide the services described
13 in Section 4216.3 may charge a fee in an amount sufficient to cover
14 the cost of providing that service.

15 SEC. 9. Section 4216.6 of the Government Code is amended
16 to read:

17 4216.6. (a) (1) Any operator or excavator who negligently
18 violates this article is subject to a civil penalty in an amount not
19 to exceed ten thousand dollars (\$10,000).

20 (2) Any operator or excavator who knowingly and willfully
21 violates any of the provisions of this article is subject to a civil
22 penalty in an amount not to exceed fifty thousand dollars (\$50,000).

23 (3) Except as otherwise specifically provided in this article, this
24 section is not intended to affect any civil remedies otherwise
25 provided by law for personal injury or for property damage,
26 including any damage to subsurface installations, nor is this section
27 intended to create any new civil remedies for those injuries or that
28 damage.

29 (4) This article shall not be construed to limit any other provision
30 of law granting governmental immunity to state or local agencies
31 or to impose any liability or duty of care not otherwise imposed
32 by law upon any state or local agency.

33 (b) An action may be brought by the Attorney General, the
34 district attorney, or the local or state agency that issued the permit
35 to excavate, for the enforcement of the civil penalty pursuant to
36 this section either in a civil action brought in the name of the people
37 of the State of California or in an administrative hearing before
38 the authority pursuant to Section 4216.19. If penalties are collected
39 as a result of a civil suit brought by a state or local agency for
40 collection of those civil penalties, the penalties imposed shall be

1 paid to the general fund of the agency. If more than one agency is
2 involved in enforcement, the penalties imposed shall be
3 apportioned among them by the court in a manner that will fairly
4 offset the relative costs incurred by the state or local agencies, or
5 both, in collecting these fees.

6 (c) The requirements of this article may also be enforced as
7 follows:

8 (1) The Contractors' State License Board shall enforce paragraph
9 (1) of subdivision (a) of Section 4216.2 as specified in Section
10 7110.7 of the Business and Professions Code.

11 (2) The Public Utilities Commission may enforce subdivisions
12 (a) and (b) of Section 4216.3 against operators of natural gas and
13 electric underground infrastructure, unless those operators are
14 municipal utilities.

15 (3) The Office of the State Fire Marshal may enforce
16 subdivisions (a) and (b) of Section 4216.3 against operators of
17 hazardous liquid pipelines, unless those operators are municipal
18 utilities.

19 ~~(e)~~

20 (d) Statewide information provided by operators and excavators
21 regarding facility events shall be compiled and made available in
22 an annual report by regional notification centers and posted on the
23 Internet Web sites of the regional notification centers.

24 ~~(d)~~

25 (e) For purposes of subdivision~~(e)~~, (d), the following terms
26 have the following meanings:

27 (1) "Facility event" means the occurrence of excavator
28 downtime, damages, near misses, and violations.

29 (2) "Statewide information" means information submitted by
30 operators and excavators using the California Regional Common
31 Ground Alliance's Virtual Private Damage Information Reporting
32 Tool. Supplied data shall comply with the Damage Information
33 Reporting Tool's minimum essential information as listed in Best
34 Practices Version 11.0 by the Common Ground Alliance.

35 SEC. 10. Section 4216.7 of the Government Code is amended
36 to read:

37 4216.7. (a) If a subsurface installation is damaged by an
38 excavator as a result of failing to comply with Section 4216.2 or
39 4216.4, or as a result of failing to comply with the operator's
40 requests to protect the subsurface installation as specified by the

operator before the start of excavation, the excavator shall be liable to the operator of the subsurface installation for resulting damages, costs, and expenses to the extent the damages, costs, and expenses were proximately caused by the excavator's failure to comply.

(b) If an operator has failed to become a member of, participate in, or share in the costs of, a regional notification center, that operator shall forfeit his or her claim for damages to his or her subsurface installation arising from an excavation against an excavator who has called at least two working days in advance to the extent damages were proximately caused by the operator's failure to be a member.

(c) If an operator of a subsurface installation has failed to comply with the provisions of Section 4216.3, including, but not limited to, the requirement to field mark the appropriate location of subsurface installations within two working days of notification, has failed to comply with paragraph (2) of subdivision (a) of Section 4216.2, or has failed to comply with subdivision (b) of Section 4216.4, the operator shall be liable to the excavator who has complied with Sections 4216.2 and 4216.4 for damages, including liquidated damages, liability, losses, costs, and expenses resulting from the operator's failure to comply with these specified requirements to the extent the damages, costs, and expenses were proximately caused by the operator's failure to comply.

(d) An excavator who damages a subsurface installation due to an inaccurate field mark by an operator, or by a third party under contract to perform field marking for the operator, shall not be liable for damages, replacement costs, or other expenses arising from damages to the subsurface installation if the excavator complied with Sections 4216.2 and 4216.4.

(e) In any actions for reimbursement or indemnification for a claim arising from damage to a subsurface installation in which the court or arbitrator finds that the excavator complied with the requirements for Sections 4216.2 and 4216.4, the excavator shall be awarded reasonable attorney's fees and expenses.

(f) For the purposes of this section, "inaccurate field mark" means a mark, or set of markings, made pursuant to Section 4216.3, that did not correctly indicate the approximate location of a subsurface installation affected by an excavation and includes the actual physical location of a subsurface installation affected by an

1 excavation that should have been marked pursuant to Section
2 4216.3 but was not.

3 (g) Nothing in this section shall be construed to do any of the
4 following:

5 (1) Affect claims including, but not limited to, third-party claims
6 brought against the excavator or operator by other parties for
7 damages arising from the excavation.

8 (2) Exempt the excavator or operator from his or her duty to
9 mitigate any damages as required by common or other applicable
10 law.

11 (3) Exempt the excavator or operator from liability to each other
12 or third parties based on equitable indemnity or comparative or
13 contributory negligence.

14 SEC. 11. Section 4216.8 of the Government Code is amended
15 to read:

16 4216.8. This article does not apply to either of the following
17 persons:

18 (a) An owner of residential real property doing work not
19 requiring a permit issued by a state or local agency on his or her
20 residential real property that has no easement or right-of-way who
21 only uses ~~nonmechanized~~ hand tools for excavation.

22 (b) Any person or private entity that leases or rents power
23 operated or power-driven excavating or boring equipment,
24 regardless of whether an equipment operator is provided for that
25 piece of equipment or not, to a contractor or subcontractor licensed
26 pursuant to Article 5 (commencing with Section 7065) of Chapter
27 9 of Division 3 of the Business and Professions Code, if the signed
28 rental agreement between the person or private entity and the
29 contractor or subcontractor contains the following provision:

30
31 “It is the sole responsibility of the lessee or renter to follow
32 the requirements of the regional notification center law
33 pursuant to Article 2 (commencing with Section 4216) of
34 Chapter 3.1 of Division 5 of Title 1 of the Government Code.
35 By signing this contract, the lessee or renter accepts all
36 liabilities and responsibilities contained in the regional
37 notification center law.”

38
39 SEC. 12. Section 4216.9 of the Government Code is amended
40 to read:

1 4216.9. (a) A permit to excavate issued by any local agency,
2 as defined in Section 4216, or any state agency, shall not be valid
3 unless the applicant has been provided an initial ticket by a regional
4 notification center pursuant to Section 4216.2. For purposes of
5 this section, “state agency” means every state agency, department,
6 division, bureau, board, or commission, including the Department
7 of Transportation.

8 (b) This article does not exempt any person or corporation from
9 Sections 7951, 7952, and 7953 of the Public Utilities Code.

10 SEC. 13. Section 4216.10 is added to the Government Code,
11 to read:

12 4216.10. (a) On or before January 1, 2017, the Occupational
13 Safety and Health Standards Board shall revise subdivision (b) of
14 Section 1541 of Title 8 of the California Code of Regulations to
15 clarify best practices to be used by excavators when excavating
16 near subsurface installations.

17 (b) The board shall convene an advisory committee hearing to
18 seek input from operators, regional notification centers, labor, and
19 excavators on best practices to be used by excavators when
20 excavating in urban areas where there is a high density of
21 subsurface installations, the appropriate frequency of potholing,
22 and other best practices developed by various industry associations,
23 including the Common Ground Alliance.

24 SEC. 14. Section 4216.11 is added to the Government Code,
25 to read:

26 4216.11. (a) The California Underground Facilities Safe
27 Excavation Authority is hereby created.

28 (b) The authority shall enforce this article and further its
29 purposes, and thus has the same powers as are conferred upon
30 heads of departments of the state by Article 1 (commencing with
31 Section 11150) of Chapter 2 of Part 1 of Division 3 of Title 2 in
32 the Government Code. Notwithstanding Section 11152, the
33 authority shall not adopt rules or regulations.

34 (c) The authority may hold hearings and conduct any
35 investigations necessary to carry out its powers and duties
36 prescribed by this article and, for those purposes, has the same
37 powers as are conferred upon heads of departments of the state by
38 Article 2 (commencing with Section 11180) of Chapter 2 of Part
39 1 of Division 3 of Title 2.

1 SEC. 15. Section 4216.12 is added to the Government Code,
2 to read:

3 4216.12. (a) The authority shall be composed of nine members,
4 of which seven shall be appointed by the Governor, one shall be
5 appointed by the Speaker of the Assembly, and one shall be
6 appointed by the Senate Committee on Rules.

7 (b) The seven members appointed by the Governor shall be
8 appointed, as follows:

9 (1) Three members shall have knowledge and expertise in
10 managing underground. Of those three members, one shall have
11 knowledge and expertise in managing the underground institutions
12 of a municipal utility.

13 (2) Two members shall have knowledge and expertise in contract
14 excavation.

15 (3) One member shall have knowledge and expertise in
16 subsurface installation location and marking.

17 (4) One member shall have knowledge and expertise in operating
18 a regional notification center.

19 (c) The member appointed by the Speaker of the Assembly shall
20 have knowledge and expertise in representing in safety matters
21 the workers employed by contract excavators.

22 (d) The member appointed by the Senate Committee on Rules
23 shall have knowledge and expertise in managing the underground
24 installations on one's own property, and may be drawn from
25 agricultural, commercial, or residential, or other, property sectors.

26 SEC. 16. Section 4216.13 is added to the Government Code,
27 to read:

28 4216.13. (a) The term of a member of the authority is two
29 years. Of the first members of the authority, four members,
30 determined by lot, shall serve for one year so that the terms of the
31 members shall be staggered.

32 (b) A member shall not be appointed for more than two
33 consecutive full terms.

34 (c) To the extent possible, the Governor shall fill any vacancy
35 in the membership of the authority within 60 days after the vacancy
36 occurs.

37 (d) Upon the recommendation of the authority, the Governor
38 may remove a member appointed by the Governor for
39 incompetence or misconduct.

1 SEC. 17. Section 4216.14 is added to the Government Code,
2 to read:

3 4216.14. (a) The authority shall select a chairperson from
4 among its members at the first meeting of each calendar year or
5 when a vacancy in the chair exists.

6 (b) Subject to subdivision (c), the manner in which the
7 chairperson is selected and the chairperson's term of office shall
8 be determined by the authority.

9 (c) A member of the authority shall not serve more than two
10 consecutive years as the chairperson of the authority.

11 SEC. 18. Section 4216.15 is added to the Government Code,
12 to read:

13 4216.15. The authority shall meet at least once every three
14 months. The authority shall hold meetings in Sacramento and Los
15 Angeles, and in other locations in the state it deems necessary.

16 SEC. 19. Section 4216.16 is added to the Government Code,
17 to read:

18 4216.16. (a) In addition to other powers specified in this article,
19 the authority may do any of the following:

20 (1) Apply for and accepts grants, contributions, and
21 appropriations, and award grants consistent with the goals and
22 objectives of a program or activity the authority is authorized to
23 implement or administer.

24 (2) Contract for professional services if the work or services
25 cannot be satisfactorily performed by its employees or by any other
26 state agency.

27 (3) Sue and be sued.

28 (4) Request and utilize the advice and services of all federal,
29 state, local, and regional agencies.

30 (5) Conduct public education and outreach programs consistent
31 with this article, promote the development of safety procedures
32 for excavation and demolition projects constructed in the area of
33 underground facilities, or make grants to local governments or
34 private entities to do so.

35 (b) Notwithstanding Section 11152, the authority shall not adopt
36 rules or regulations.

37 SEC. 20. Section 4216.17 is added to the Government Code,
38 to read:

39 4216.17. The authority may obtain funding for its operational
40 expenses from:

1 (a) A federal or state grant.

2 (b) A fee charged to members of the regional notification centers
3 not to exceed the reasonable regulatory cost incident to enforcement
4 of this article.

5 (c) A fine assessed pursuant to Section 4216.19.

6 (d) A filing or administrative fee to hear a complaint pursuant
7 to Section 4216.19.

8 (e) Any other source.

9 SEC. 21. Section 4216.18 is added to the Government Code,
10 to read:

11 4216.18. In the enforcement of this article, and furtherance of
12 its purposes, the authority may authorize staff to use compliance
13 audits, including field audits, and investigations of incidents and
14 near-misses.

15 SEC. 22. Section 4216.19 is added to the Government Code,
16 to read:

17 4216.19. (a) After providing opportunity for hearing pursuant
18 to the ~~Administrative Procedures~~ *administrative adjudication*
19 *provisions of the Administrative Procedure Act* (Chapter 4.5
20 (commencing with Section 11400) of Part 1 of Division 3 of Title
21 2), the authority, upon making a finding of violation, may:

22 (1) Assess a civil penalty of no more than ____ dollars (\$____).

23 (2) Reach a settlement in lieu of assessing a civil penalty.

24 (3) Require remedial education relevant to the violation.

25 (b) The authority may do both of the following:

26 (1) Use the services of a third party to collect civil penalties.

27 (2) If the authority determines that an individual cannot afford
28 to pay a penalty imposed pursuant to this section, the authority
29 may exempt the individual from payment of the penalty in whole
30 or in part.

31 SEC. 23. Section 4216.20 is added to the Government Code,
32 to read:

33 4216.20. (a) A person aggrieved by a decision of the authority
34 may, within 30 days after receiving the decision, request judicial
35 review of the decision in superior court.

36 (b) In accordance with the judicial review and appeals process
37 under the Administrative Procedure Act (Chapter 3.5 (commencing
38 with Section ~~11340~~ 1140), and Chapter 5 (commencing with
39 Section 11500), of Part 1 of Division 3 of Title 2), the court shall

1 hear and determine all matters connected with the decision of the
2 authority for which judicial review is requested.

3 (c) (1) Except as provided in paragraph (2), the cost of the
4 judicial review, including the cost of preparing a record and
5 transcript, shall be paid by the party filing the request for judicial
6 review.

7 (2) If the party filing the request for judicial review prevails,
8 the court may require that the cost of the judicial review, including
9 the cost of preparing a record and transcript, be paid by the
10 authority, unless the authority waives the award of attorney's fees.

11 SEC. 24. Section 4216.21 is added to the Government Code,
12 to read:

13 4216.21. (a) Notwithstanding Section 10231.5, the authority
14 shall report to the Governor and the Legislature on or before
15 January 1, 2017, and each year thereafter, on the activities of the
16 authority and any recommendations of the authority.

17 (b) A report to be submitted pursuant to subdivision (a) shall
18 be submitted in compliance with Section 9795.

19 SEC. 25. Section 320.5 is added to the Public Utilities Code,
20 to read:

21 320.5. (a) *The Safe Energy Infrastructure and Excavation*
22 *Fund is hereby established in the State Treasury. Moneys deposited*
23 *into the fund shall be used to cover the administrative expenses of*
24 *the California Underground Facilities Safe Excavation Authority,*
25 *upon appropriation by the Legislature.*

26 (b) *Any excess moneys in the fund that are not necessary for*
27 *the administrative expenses of the California Underground*
28 *Facilities Safe Excavation Authority may, upon appropriation by*
29 *the Legislature, be apportioned by the commission for the following*
30 *purposes:*

31 (1) *The California Underground Facilities Safe Excavation*
32 *Authority, for the purpose of the education and training of persons*
33 *who violate Article 2 (commencing with Section 4216) of Chapter*
34 *3.1 of Division 5 of Title 1 of the Government Code.*

35 (2) *Regional notification centers, as defined in Section 4216 of*
36 *the Government Code, to cover the cost of public education and*
37 *outreach programs designed to promote excavation safety around*
38 *underground facilities.*

39 (3) *The commission, to further a workforce development*
40 *program, which shall be consistent with its equal employment*

1 *opportunity program, that recruits and trains safety staff to perform*
2 *the highest quality gas and electric utility inspections, audits,*
3 *accident investigations, and data tracking and analysis. The*
4 *commission may only apportion moneys for this purpose upon*
5 *commission approval of the workforce development program at a*
6 *meeting of the commission.*

7 *SEC. 26. Section 1702.5 of the Public Utilities Code is amended*
8 *to read:*

9 1702.5. (a) The commission shall, in an existing or new
10 proceeding, develop and implement a safety enforcement program
11 applicable to gas corporations and electrical corporations ~~which~~
12 *that* includes procedures for monitoring, data tracking and analysis,
13 and investigations, as well as issuance of citations by commission
14 staff, under the direction of the executive director. The enforcement
15 program shall be designed to improve gas and electrical system
16 safety through the enforcement of applicable law, or order or rule
17 of the commission related to safety using a variety of enforcement
18 mechanisms, including the issuance of corrective actions, orders,
19 and citations by designated commission staff, and recommendations
20 for action made to the commission by designated commission staff.

21 (1) When considering the issuance of citations and assessment
22 of penalties, the commission staff shall take into account voluntary
23 reporting of potential violations, voluntary removal or resolution
24 efforts undertaken, the prior history of violations, the gravity of
25 the violation, and the degree of culpability.

26 (2) The procedures shall include, but are not limited to,
27 providing notice of violation within a reasonable period of time
28 after the discovery of the violation.

29 (3) The commission shall adopt an administrative limit on the
30 amount of monetary penalty that may be set by commission staff.

31 (b) The commission shall develop and implement an appeals
32 process to govern the issuance and appeal of citations or resolution
33 of corrective action orders issued by the commission staff. The
34 appeals process shall provide the respondent a reasonable period
35 of time, upon receiving a citation, to file a notice of appeal, shall
36 afford an opportunity for a hearing, and shall require the hearing
37 officer to expeditiously provide a draft disposition.

38 (c) The commission shall, within a reasonable time set by the
39 commission, conclude a safety enforcement action with a finding
40 of violation, a corrective action order, a citation, a determination

1 of no violation, approval of the corrective actions undertaken by
2 the gas corporation or electrical corporation, or other action. The
3 commission may institute a formal proceeding regarding the alleged
4 violation, potentially resulting in additional enforcement action,
5 regardless of any enforcement action taken at the commission staff
6 level.

7 (d) The commission shall implement the safety enforcement
8 program for gas safety by July 1, 2014, and implement the safety
9 enforcement program for electrical safety no later than January 1,
10 2015.

11 (e) This section does not apply to an exempt wholesale
12 generator, a qualifying small power producer, or qualifying
13 cogenerator, as defined in Section 796 of Title 16 of the United
14 States Code and the regulations enacted pursuant thereto. Nothing
15 in this section affects the commission's authority pursuant to
16 Section 761.3.

17 (f) *Moneys collected as a result of the issuance of citations*
18 *pursuant to this section shall be deposited in the Safe Energy*
19 *Infrastructure and Excavation Fund.*